LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION.

No. LAW 9 LCA 1973, Bangalore, dated 29th January 1973.

The Governor of Mysore is pleased to order that the Criminal Procedure Code Bill, 1970 as reported by the Joint Committee of the Houses of Parliament be republished in the *Mysore Gazette* for general information.

H. SUBB RAO,
Under Secretary to Government,
Department of Law and Parliamentary Affairs

Printed by the Director of Printing, Stty. & Publications at the Govt. Press, B'lore

13. *Power of Central Government to carry on the business of selling antiquities to the exclusion of others*—(1) If the Central Government is of opinion that with a view to conserving antiquities or in the public interest it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that with effect on and from such date as may be specified in the notification, the Central Government or any authority or agency authorised by the Central Government in this behalf shall alone be entitled to carry on the business of selling or offering for sale of antiquities.

(2) On the issue of a notification under sub-section (1),—

(*a*) it shall not be lawful for any person, authority or agency, other than the Central Government or any authority or agency authorised by the Central Government, to carry on the business of selling or offering for sale antiquity on and from the date specified therein;

(*b*) the provisions of this Act, in so far as they relate to the licensing of persons carrying on the business of selling or offering for sale of antiquities shall cease to have effect except as respects things done or omitted to be done before such cesser of operation and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser of operation as if those provisions had been repealed by a Central Act:

Provided that every licence granted under section 8 and in force on the date aforesaid shall, notwithstanding that the period specified therein has not expired, cease to be in force.

(3) Every person whose licence has ceased to be in force under the proviso to clause (*b*) of sub-section (2) shall, within such period, in such form and in such manner as may be prescribed, make a declaration before the licensing officer of all the antiquities in his ownership, control or

possession immediately before the date specified in the notification issued under sub-section (1).

14. *Registration of antiquities.*—(1) The Central Government may, from time to time, by notification in the in the Official Gazette, specify those antiquities which shall be registered under this Act.

(2) In specifying the antiquities under sub-section (1), the Central Government shall regard to the following factors, namely :—

(i) the necessity for conserving the objects of art ;

(ii) the need to preserve such objects within India for the better appreciation if the cultural heritage of India ;

(iii) such other factors as will, or are likely to, contribute to the safeguarding of the cultural heritage of India.

(3) Every person who owns, controls or is in possession of any antiquity specified in the notification issued under sub-section (1) shall register such antiquity before the registering officer—

(*a*) in the case of a person who owns, controls or possesses such antiquity on the date of issue of such notification, within three months of such date ; and

(*b*) in the case of any other person, within fifteen days of the date on which he comes into ownership, control or possession of such antiquity,

and obtain a certificate in token of such registration.

15. *Appointment of registering officers.*—The Central Government may, by notified order,—

(a) appoint such persons, as it thinks fit, to be registering officers for the purposes of this Act ; and

(*b*) define the limits of the area within which a registering officer shall exercise the powers conferred on registering officers by or under this Act.

16. *Application for registration and grant of certificate of registration.*—(1) Everyperson required to register any antiquity before the registering officer under section 14 shall make an application to the registering officer for the grant of a certificate of registration.

(2) Every application under sub-section (1) shall be accompanied by such photographs of the antiquity which is to be registered and by such number of copies, not exceeding six, as may be prescribed and shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application under sub-section (1), the registering officer may, after holding such inquiry as he deems fit, grant a certificate of registration containing such particulars as may be prescribed.

(4) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

17. *Transfer of ownership, etc., of antiquities to be intimated to the registering officer.*—Whenever any person transfers the ownership, control or possession of any antiquity specified in any notification issued under sub-section (1) of section 14 such person shall intimate, within such period and in such form as may be prescribed, the fact, of such transfer to the registering officer.

18. *Provisions of sections* 14, 16 *and* 17 *not to apply in certain cases.*—Nothing in section 14 or section 16 or section 17 shall apply to any antiquity kept—

(i) in a museum ; or

(ii) in an office ; or

(iii) in an archive or

(iv) in an educational or cultural institution.

owned, controlled or managed by the Government.

19. *Power of Central Government to compulsorily acquire antiquities and art treasures.*—(1) If the Central Government is of opinion that it is desirable to preserve any antiquity or art treasure in a public place, that Government may make an order for the compulsory acquisition of such antiquity or art treasure.

(2) On the making of an order under sub-section (1) the Collector of the district in which such antiquity or art treasure is kept shall give notice to the owner thereof intimating him of the decision of the Central Government to acquire the same and it shall be lawful for the Collector to take possession of such antiquity or art treasure, for which purpose the Collector may use such force as may be necessary.

(3) Where the owner of any antiquity or art treasure the possession of which has been taken over by the Collector under sub-section (2) objects to the taking over of such possession, he may, within a period of thirty days from the date on which such possession was taken over, make a representation to the Central Government putting forth his objections :

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the owner of such antiquity or art treasure was prevented by sufficient cause from making the representation in time.

(4) On receipt of any representation under sub-section (3), the Central Government, after making such inquiry as it deems fit and after giving to the objector an opportunity of being heard in the matter, shall within a period of ninety days form the date of receipt of the representation, either rescind or confirm the order made by it under sub-section (1).

(5) Where any order made by the Central Government under sub-section (1) is rescinded under sub-section (4) the

antiquity or art treasure shall be returned to the owner thereof without delay and at the expense of the Central Government.

(6) Where the order made by the Central Government under hub-stction (1) is rescinded under sub-section (4) the the antiquity or art treasure shall vest in the Central Government with effect from the date on which the possession thereof has been taken over by the Collector under sub-section (2).

(7) The power of compulsory acquisition conferred by this section shall not extend to any object, being an antiquity or art treasure, used for *bona fide* religious observances.

Explanation.—In this section, "public place" means any place which is open to the use of the public, whether on payment of fees or not, or whether it is actually used by the public or not.

20. *Payment of compensation for antiquities and art treasures compulsorily acquired under section* 19.—(1) Where any antiquity or art treasure is compulsorily acquired under section 19, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(*b*) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(*c*) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the antiquity or

art treasure compulsorily acquired to assist the arbitrator and where such nomination is made, the person to be compenscated may also nominate an assessor for the same purpose ;

(*d*) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation ;

(*e*) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and the provisions of sub-section (2) ;

(*f*) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;

(*g*) nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to arbitration under this section.

(2) While determining the compensation under sub-section (1) the arbitrator shall have regard to the following factors, namely :—

(i) the date or the period to which the antiquity or art treasure belongs ;

(ii) the artistic, aesthetic, historical, architectural, archaeological or anthropological importance of the antiquity or art treasure ;

(iii) the rarity of the antiquity or art treasure ;

(iv) such other matters as are relevant to the dispute.

(3) The arbitrator appointed under sub-section (1), while holding arbitration proceedings under this section,

shall have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document ;

(*c*) reception of evidence on affidavits ;

(*d*) requisitioning any public record from any court or office ;

(*e*) issuing commissions for the examination of witnesses.

21. *Appeals against decisions of licensing officers and registering officers.*—(1) Any person aggrieved by a decision of a licensing officer under section 8 or section 9 or section 11 or by a decision of a registering officer under section 16 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to such authority as may be prescribed.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such orders as it deems fit.

22. *Appeals against awards of arbitrators.*—Any person aggrieved by an award of the arbitrator made under section 20 may, within thirty days from the date on which the award is communicated to him, prefer an appeal to the High Court within whose jurisdiction he resides :

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

23. *Powers of entry, search, seizure, etc.*—(1) Any person, being an officer of Government, authorised in this behalf by the Central Government, may, with a view to securing compliance with the provisions of this Act or to satisfying himself that the provisions of this Act have been complied with—

(i) enter and search any place;

(ii) seize any antiquity or art treasure in respect of which he suspects that any provision of this Act has been, is being, or is about to be, contravened and thereafter take all measures necessary for securing the production of the antiquity or art treasure so seized in a court and for its safe custody, pending such production.

(2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 (5 of 1898), relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

24. *Powers to determine whether or not an article, etc., is antiquity or art treasure.*—If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India authorised by the Director General, Archaeological Survey of India and the decision of the Director General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final.

25. *Penalty.*—(1) If any person, himself or by any other person on his behalf, exports or attempts to export any antiquity or art treasure in contravention of section 3, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962 (52 of 1962), as applied by section 4, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(2) If any person contravenes the provisions of section 7 or section 12 or sub-section (2) or sub-section (3) of section 13 or section 14 or section 17, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both and the antiquity in respect of which the offence has been committed shall be liable to confiscation.

(3) If any person prevents any licensing officer from inspecting any record, photograph or register maintained under section 10 or prevents any officer authorised by the Central Government under sub-section (1) of section 23 from entering into or searching any place under that sub-section, he shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

26. *Cognizance of offences.*—(1) No prosecution for an offence under sub-secton (1) of section 25 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf.

(2) No court shall take cognizance of an offence punishable under sub-section (2) or sub-section (3) of section 25 except upon complaint in writing made by an officer generally or specially authorised in this behalf by the Central Government.

(3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

27. *Magistrate's power to impose enhanced penalties.*—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (5 of 1898), it shall be lawful for any Presidency Magistrate or any Magistrate of the First Class to pass any sentence under this Act in excess of his power under section 32 of the said Code.

28. *Offences by companies.*—(1) Where an offence under this Act has been comemitted by company, every person who at the time the offecne was committed was in charge of, or was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commision of such offence.

(2) Nothwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals ; and

(*b*) "director", in relation to a firm, means a partner in the firm.

29. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything

which is in good faith done or is intended to be done under this Act.

30. *Application of other laws not barred.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Ancient Monuments Preservation Act, 1904 (7 of 1904), or the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or any other law for the time being in force.

31. *Power to make rules.*—(1) The Central Government may, by notification in the Offiical Gazette, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the authority for issue of permit under sub-section (2) of section 3;

(*b*) the form in which an application for the grant of a licence may be made under sub-section (1) of section 7 and the particulars which such application shall contain;

(*c*) the factors to which regard may be had while granting a licence under sub-section (1) of section 8;

(*d*) the fees on payment of which, the period for which, the conditions subject to which and the form in which a licence may be granted under sub-section (1) of section 8 and the particulars which such licence shall contain;

(*e*) the fees on payment of which and the period for which a licence may be renewed under sub-section (1) of section 9;

(*f*) the records, photographs and registers which are to be maintained under section 10 and the manner in which such records, photographs and registers shall be maintained

and the particulars which such records, photographs and registers shall contain ;

(*g*) the nature of the photographs of the antiquity and the number of copies thereof which shall accompany an application for the grant of a certificate of registration to be made under sub-section (1) of section 16 and the form in which such application may be made and the particulars which such application shall contain ;

(*h*) the particulars which a certificate of registration granted under sub-section (3) of section 16 shall contain ;

(*i*) the authority to which an appeal may be perferred under sub-section (1) of section 21 ; and

(*j*) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. *Repeal.*—(1) The Antiquities (Export Control) Act, 1947 (3 of 1947), is hereby repealed.

(2) For the removal of doubts it is hereby declared that every licence issued under section 3 of the Act repealed under sub-section (1) and in force at the commencement of this Act shall, notwithstanding that the period specified therein has not expired, cease to be in force.

33. *Amendment of Act 24 of 1958.*—In the Ancient Monuments and Archaeological Sites and Remains Act, 1958,—

(i) in section 1, for sub-section (2), the following sub-section shall be substituted, namely :—

" (2) It extends to the whole of India.";

(ii) after section 2, the following section shall be inserted, namely :—

"2A. *Construction of references to any law not in force in the State of Jammu and Kashmir.*— Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State construed as a reference to the corresponding law if any, in force in that State." ;

(iii) in section 23,—

(*a*) in sub-sections (2) and (4), for the words " compulsory purchase ", the words " compulsory acquisition " shall be substituted ;

(*b*) in sub-section (3), for the word " compulsory purchase of any such antiquities at their market value ", the words " compulsory acquisition of any such antiquities " shall be substituted ;

(iv) in section 26,—

(*a*) in sub-section (1), for the words " compulsory purchase of such antiquity at its market value ", the words " compulsory acquisition of such antiquity " and for the words " to be purchased " the words " to be acquired " shall be substituted ;

(*b*) in sub-sections (2) and (3), for the words "compulsory purchase", the words "compulsory acquisition" shall be substituted;

(v) in section 28, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (3) of section 23 or under sub-section (1) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 shall, so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act.".